

DISCUSSION AND COMMENTS

RE THE DRAWING OBJECTIONS

The Examiner has further objected to the drawings under 37 CFR 1.83(a) as not showing every feature of the invention specified in the claims with the specific items not shown being enumerated. Applicant has supplemented the drawings by submitting an additional drawing having FIGURE 7 showing each of the enumerated claim features. The newly submitted drawing does not introduce any new matter into the application as originally filed.

With the drawings as amended and supplemented, Applicant believes that the Examiner's objections have been overcome, and therefore respectfully requests acceptance of the submitted Drawing Sheet having FIGURE 7 and withdrawal of the objections to the drawings.

RE THE SPECIFICATION OBJECTION

The Examiner has objected to the specification as failing to provide proper antecedent basis for the claimed subject matter, specifically, that claims 31 and 45 claim structure that the foot railing is fixedly held to the frame. Applicant thanks the Examiner for his close reading of the claims and has deleted these two claims thereby rendering the objection moot.

RE THE CLAIM REJECTIONS

Claim 15 has been rejected under 35 U.S.C. 112, second paragraph, as being

indefinite as it depended on now cancelled claim 13. Applicant regrets this error having occurred during the last round of claim amendments and cancellations, and has corrected it by having claim 15 now depend from claim 12 which remains in the application. Applicant thanks the Examiner for noting this error.

Applicant has amended independent claims 1, 22 and 38 (and consequently claims dependent thereupon) to define more clearly and limit that being claimed as constituting structure embodying the present invention and, with this amendment, believes that the claims now overcome the cited references as analyzed in detail below.

Claims 1-5, 9-11, 16, and 18-19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,225,059 to Kappos ("Kappos"), in view of U.S. Patent No. 2,771,318 to Jagsch ("Jagsch") and U.S. Patent No. 3,940,175 to Robison ("Robison") or U.S. Patent Application No. 2002/0180228 to Poarch et al. ("Poarch") in view of the foregoing Robison reference.

Kappos provides an insulated ice cooled container mounted on a wheeled road traveling trailer. The insulated closed container has a top which is provided with an opening communicating with the ice chamber interior to provide entry to the ice chamber and receptacle carrying area.

The present invention, as per the claims, as now amended, provides a structure having a mobile bar mounted on a wheeled trailer with a generally flat fixed counter top member closing the entire top of the compartment that may be used as a bar for refreshments.

Applicant believes that as the Kappos reference requires that the top of its insulated closed container mounted on its wheeled trailer frame have an opening

communicating with the interior of the insulated closed container (Kappos claim 1) and that Applicant's claimed structure (Applicant amended claims 1, 22 and 38) does not provide for such an opening but instead requires a fixed counter top member that closes the entire top of the compartment, that these two structures are exclusive of one another having contradictory structural elements. Since Kappos lacks this fundamental structural component, as well as any suggestion to modify its disclosed and claimed structure to provide a fixed counter top member that closes the entire top of the insulated closed container, it cannot function as a reference to preclude Applicant's claim for patentability of his invention as claimed.

Furthermore, neither the Jagsch nor the Poarch et al. or Robinson references provides this missing element of a generally flat fixed counter top member closing the entire top of the compartment. Thus, no combination formed, assuming such combination were even possible, by picking and choosing structural elements from these references to supply missing structural components of the Kappos reference can be made. There is also no suggestion in Kappos or any of the cited references that they are deficient and need supplementing by mutual combination.

Accordingly, Applicant believes that amended claim 1 and claims 2-5, 9-11, 16, and 18-19 depending thereon and claiming added further distinguishing structure, distinguish patentably over the Kappos reference and the cited combinations that include the Kappos reference. Applicant therefore respectfully requests that the rejection of these claims be withdrawn and that they be passed to allowance.

Claims 6-8, 22-27, 33-35, 38-41, 47-48 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and (sic) Robinson as

applied to claim 1 above, and further in view of U.S. Patent No. 1,370,517 to Cheeseman ("Cheeseman"). Cheeseman is relied upon to provide an admittedly missing electrical hookup to the previously analyzed alleged combination of Kappos, Jagsch and Robison. Cheeseman provides a tea caddy and utilizes a plug 27 for providing electrical power to a heating element on the caddy.

Once again, Cheeseman, adding merely an electrical outlet, fails to provide the missing essential element of a generally flat fixed counter top member closing the entire top of the compartment found in Applicant's claims to the underlying Kappos referenced structure. For at least these reason, Applicant believes that his claims are patentably distinct over the cited references taken in any reasonable combination and respectfully requests that the rejection of these claims be withdrawn and the claims passed to allowance.

Claims 12, 15, 28, 31, 42, 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and (sic) Robinson or Poarch et al. in view of Robison as applied to claim 1 above, or Kappos in view of Jagsch and Robison in view of Cheeseman as applied to claim 22 and further in view of U.S. Patent No. 2,845,780 to Conklin et al. ("Conklin").

Conklin is relied upon to provide an admittedly missing rear wall railing to the previously analyzed alleged combination of Kappos, Jagsch, Robison, and Cheeseman. Once again, Conklin, adding merely a rear wall railing, fails to provide the missing essential element of a generally flat fixed counter top member closing the entire top of the compartment found in Applicant's claims to the underlying Kappos referenced structure. For at least these reason, Applicant believes that his claims are patentably

distinct over the cited references taken in any reasonable combination and respectfully requests that the rejection of these claims be withdrawn and the claims passed to allowance.

Claims 14, 30 and 44 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and (sic) Robinson or Poarch et al. in view of Robison as applied to claim 1 above, or Kappos in view of Jagsch and Robison in view of Cheeseman as applied to claim 22 and further in view of Conklin and U.S. Patent No. 4,514,002 to McIntosh (“McIntosh”).

McIntosh provides a pivoted two position bumper for off the road vehicles and is relied upon to supply this bumper as a missing element to the previously analyzed combination. McIntosh, adding merely a pivoted two position bumper, fails to provide the missing essential element of a generally flat fixed counter top member closing the entire top of the compartment found in Applicant’s claims to the underlying Kappos referenced structure. For at least these reason, Applicant believes that his claims are patentably distinct over the cited references taken in any reasonable combination and respectfully requests that the rejection of these claims be withdrawn and the claims passed to allowance.

Finally, claims 17, 32 and 46 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kappos in view of Jagsch and (sic) Robinson or Poarch et al. in view of Robison as applied to claim 1 above, or Kappos in view of Jagsch and Robison in view of Cheeseman as applied to claim 22, or this combination further in view of Conklin as applied to claim 42, all in view of U.S. Patent No. 4,974,500 to Boyd et al. (“Boyd”).

Boyd provides a hot beverage preparation and dispensing cart having built-in

lighting 52, 54 within a canopy that extends over the top counter of the cart.

As discussed above, Boyd fails to provide any of the admittedly missing elements to the previously analyzed references and combinations thereof that would render Applicant's claimed invention obvious or non-patentable as required. The addition of built-in lighting does not provide a generally flat fixed counter top member closing the entire top of the compartment that may be used as a bar area, nor does it provide a foot railing, etc. As such, Applicant believes that the claims remain patentably distinct over any and all of the cited references, including Boyd, either singly or in any reasonable combination. Applicant therefore respectfully requests the withdrawal of the rejection of these claims and requests that they be passed on to allowance.

In conclusion, Applicant has responded to pending Office Action dated August 10, 2005 by supplementing the drawings to overcome the objections raised by the Examiner, by amending the claims making them more definite as to the subject matter being claimed, and by distinguishing the claimed invention as being patentable over the references cited by the Examiner in refusing allowance. With this response Applicant believes the application to now be in condition for allowance, and allowance of the application is respectfully requested. If the Examiner disagrees with Applicant, or feels that additional clarification is necessary, Applicant's attorney respectfully requests that the Examiner call Applicant's attorney to determine if the issue can be resolved prior to issuance of an additional office action in this matter.

**REQUEST FOR ENTRY OF THIS RESPONSE WITHOUT HAVING TO
PAY A FEE FOR EXTENSION OF TIME**

As is indicated on the photocopy of the Notice of Non-compliant Amendment sent Applicant's attorney, copy attached, no item has been marked as causing the originally timely filed Amendment and Response to be non-compliant.

Applicant's attorney received the Notice of Non-compliant Amendment on November 23, 2005, and attempted to call the Legal Instruments Examiner at the telephone number indicated on November 25, 28 and 29, 2005, multiple times, only to find the telephone number apparently disabled, as it was neither answered nor was a machine available for leaving a message requesting clarification as to the reason the originally filed Amendment and Response was considered non-compliant.

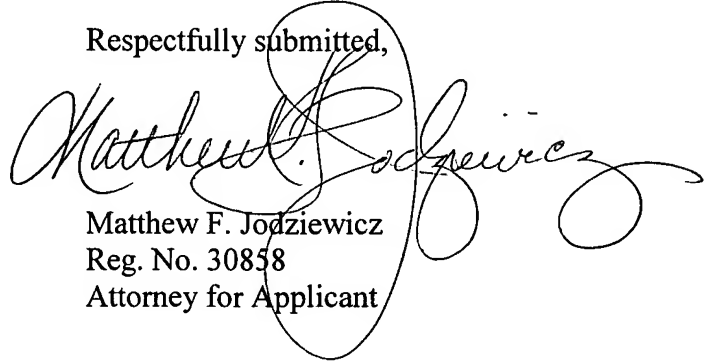
On November 29, 2005, Applicant's attorney called the Patent Examiner in the case who graciously attempted to determine the status of the submitted Amendment and Response and the reason for the issuance of the Notice of Non-compliant Amendment. The Examiner indicated that perhaps the claims list failed to use the status indicator (ORIGINAL) in front of the non-amended claims. However, box (4c) is not checked in the Notice of Non-compliant Amendment sent Applicant's attorney.

Accordingly, while Applicant has re-submitted the Amendment and Response (originally timely filed) requesting an extension of time to file and including a check for such extension, Applicant respectfully requests that the lack of any reason being indicated on the Notice of Non-compliant Amendment sent Applicant's attorney, and the difficulty Applicant has had in contacting the USPTO to determine the basis for the issuance of the Notice of Non-compliant Amendment, are grounds for acceptance of the

present re-submission of the Amendment and Response without having to pay such fee for extension of time to file. Applicant therefore respectfully requests the refund of such extension fee or that the time to respond without having to pay a fee be reset until Applicant's attorney receives notice of the basis for issuance of such Notice of Non-compliant Amendment.

Date: December 6, 2005

Respectfully submitted,

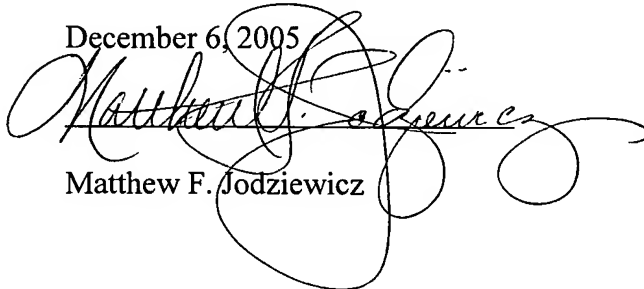


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CERTIFICATE OF MAILING (37 C.F.R. 1.8(a))

I hereby certify that this paper (along with any paper referred to as being transmitted therewith) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

December 6, 2005



Matthew F. Jodziewicz